IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

(SUO MOTU) CONTEMPT PETITION NO.380 OF 2006

Smt.R.P.SondurBaldota,
Principal District & Sessions Judge,
Pune. ..Petitioner.

V/s.

M/s.Navlakha & Sons & Ors. ..Respondents.

Mr.G.S.Godbole for Mr.S.S.Kanetkar for respondent No.1D & 1F.

CORAM: A.M.KHANWILKAR,J

DATE : MARCH 8, 2007.

P.C. :

1. Perused the reference order dated 3rd August, 2006. The Lower Court has essentially proceeded on the premiss that the contemnors having failed to inform the Court about death of the surety in June, 1984, had committed contempt of Court. The Court below has observed that that lapse would amount to contempt as the contemnors failed to give intimation about the death of surety inspite of the undertaking given by them. With utmost respect to the trial Court Judge, from the record I am unable to take the view that any undertaking was given by the contemnors as such. Indeed, the conditional order was passed by the trial Court. If the condition was not complied,

as it was a self operative order, the appropriate action could have proceeded in terms of that order. Besides, the trial Court has assumed that not giving intimation about death of the surety was wilful and intentional. There is no tangible basis for this assumption. From the record as it stands, I find it difficult to take the view that this is a case of wilful disobedience of the order or direction of the Court.

. The fact that contemnors resorted to some proceeding by itself does not mean that they had intention to not inform the death of the surety. What has been overlooked is that besides the surety, the contemnors had also executed bond in favour of the Court holding themselves answerable to all the claims in favour of the landlord arising out of the decree in question. Surety was the additional measure adopted by the Court to ensure that the decree can be taken to its logical end when required.

2. Suffice it to observe that it is not a case for proceeding with the proposed action of Civil Contempt against the respondents. Hence, this proceedings are dropped. Notices issued to contemnors are discharged.